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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,848	10/11/2006	Johannes Hendrik Wessels	NL 040398	5473
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EXAMINER				
PHILOCENTE, HAISSA				
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2821				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/599,848

Applicant(s)

WESSELS, JOHANNES HENDRIK

Examiner

Haissa Philogene

Art Unit

2821

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/5508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date 10/17/07

DETAILED ACTION

Claim Objections

Claims 3, 6 and 7 are objected to because it has been held that the recitation that an element is "capable of" or "can be" performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense.

Claim 3 is also objected to because the term "the ignition voltage" lacks proper antecedent basis.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 9 is rejected under 35 U.S.C. 101 because claim which is intended to embrace both product and process is precluded by language of 35 USC 101, which sets forth statutory classes of invention in alternative only.

Claim 9 is also rejected under 35 U.S.C. 112, second paragraph, because the claim is invalid, since claim which purports to be both product and process is ambiguous

and therefore does not particularly point out and distinctly claim subject matter of the invention. *Ex parte Lyell*, 17 USPQ2d 1548.

Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 provides for the use of at least a first electrode in a lamp as an antenna for wireless control of the lamp, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claim 8 is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wacyk et al., Patent No. 6,636,005 in view of Berdat, Patent No. 4,654,562.

As per claim 8, Wacyk discloses in Fig.4 a ballast architecture with wireless communication interface for wireless control of a fluorescent lamp (127) with electrodes (not shown). Wacyk does not disclose at least a first electrode in the lamp as an antenna. However, this feature is well-known in the art as evidenced by Berdat which discloses in Fig.6 a ballast circuit using at least a first electrode (72) in a fluorescent lamp (14) acting as an antenna to transmit electromagnetic waves causing the gas inside the fluorescent lamp to ionize. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to employ the electrode antenna as taught by Berdat into the Wacyk type device, because it would allow possibilities of transmitting electromagnetic waves causing the gas inside the fluorescent lamp to ionize.

As per claim 9, Wacyk discloses a method of transmitting and/or receiving signals between a lamp (127) comprising a first antenna (112) and a user unit (96) comprising a second antenna (97) (see Figs. 4 and 5). Wacyk does not disclose the first antenna being an at least first electrode of the luminous body of the lamp. Berdat discloses a method of transmitting signals comprising an at least first electrode (72) acting as an antenna of the luminous body of a fluorescent lamp (14). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to employ the first electrode antenna as taught by Berdat into the Wacyk type

device, because it would allow possibilities of transmitting electromagnetic waves causing the gas inside the fluorescent lamp to ionize.

As per claim 1, Wacyk discloses in Figs. 4 and 5 a device for wireless control of a lamp comprising a control interface (98) and a body for emitting light or fluorescent lamp (127) with electrodes (not shown), wherein the control interface (98) is communicatively connected to the at least first electrode of the body or fluorescent lamp (127) via antennae (97, 112) and ballast (118). Wacyk does not disclose the at least first electrode being used as a first antenna. However, this feature is well-known in the art as evidenced by Berdat which discloses in Fig.6 a ballast circuit using at least a first electrode (72) in a fluorescent lamp (14) acting as an antenna to transmit electromagnetic waves causing the gas inside the fluorescent lamp to ionize. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to employ the electrode antenna as taught by Berdat into the Wacyk type device, because it would allow possibilities of transmitting electromagnetic waves causing the gas inside the fluorescent lamp to ionize.

As per claims 2, 3 and 5, Wacyk in view of Berdat discloses the claimed invention substantially as explained above. Further, Wacyk discloses the control interface (98) being communicatively connected to the at least first electrode of fluorescent lamp through at least a capacitive circuit (116), wherein the capacitive circuit (116) as an isolator is capable of withstanding ignition voltage or high voltage necessary to activate the fluorescent lamp (127) through power stage (107); and said control

interface (98) being capable of receiving and/or transmitting a RF signal via the first and second antennae (112, 97).

As per claim 4, Wacyk in view of Berdat discloses the claimed invention substantially as explained above. Further, Wacyk discloses in Fig.3 a control interface (control box) being connected to the at least first electrode of fluorescent lamp (127) through at least an inductive coupling or transformer (32).

As per claims 6 and 7, Wacyk in view of Berdat discloses the claimed invention substantially as explained above. Further, Wacyk discloses a user control (96) which comprises a second antenna (97) so that RF signals can be transmitted and/or received to or from the first antenna (112).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Buij et al., Pub. No. 2007/0183133; Ramus, Patent No. 7,151,464, Hamlin et al., Patent No. 4,507,646.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haissa Philogene whose telephone number is (571) 272-1827. The examiner can normally be reached on 8:30 A.M.-6:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas W. Owens can be reached on (571)272-1662. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Haissa Philogene/
Primary Examiner, Art Unit 2821

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